



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Carol A. Laham
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006

MAR - 5 2015

RE: MUR 6919 (formerly AR 14-03)
Rod Lewis

Dear Ms. Laham:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your client Rod Lewis violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 3, 2015, the Commission found reason to believe that your client violated 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) (formerly 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A)), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law. Enclosed is a conciliation agreement for your consideration.

If you are interested in engaging in pre-probable cause conciliation, please contact Peter Reynolds or William Powers, the attorneys assigned to this matter, at (202) 694-1650 or (800) 424-9530, within five days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a

reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within a reasonable period. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,

John Ravel
Chair

Chair
Ann M. Ravel

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Rod Lewis

MUR 6919

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8 **I. INTRODUCTION**

9 This matter was generated in the normal course of carrying out its supervisory
10 responsibilities under the Federal Election Campaign Act of 1971, as amended (the "Act"). On
11 November 3, 2014, the Commission approved its Final Audit Report regarding Canseco for
12 Congress's (the "Committee's") activity from January 1, 2009 through December 31, 2010
13 ("Audit Report").¹ The Audit Report included the following finding that the Audit Division
14 referred to the Office of the General Counsel ("OGC") for possible enforcement action: the
15 Committee received excessive contributions totaling \$170,343 from four individuals.

16 OGC notified Respondent of the Referral and gave him an opportunity to respond. Rod
17 Lewis, an associate of Francisco Canseco who made an apparent \$147,600 excessive
18 contribution to Canseco,² filed a response acknowledging his "inadvertent violation" of the Act
19 and requested that the Commission exercise its prosecutorial discretion to dismiss the matter as
20 to him.³ Based on the discussion below and the analysis and findings set forth in the Audit
21 Report, which is herein incorporated by reference, the Commission finds reason to believe Rod
22 Lewis violated 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)) by making a \$147,600
23 excessive contribution to the Committee.

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¹ See Final Audit Report of the Commission on Canseco for Congress at 7 (January 1, 2009 – December 31, 2010), Attachment 1.

² Resp. of Rod Lewis at 1 ("Lewis Response").

³ *Id.* at 2.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 The Act prohibits any person from making a contribution⁴ to any candidate that exceeds
3 the limits of the Act (\$2,400 in 2010), and likewise prohibits any candidate or political
4 committee from knowingly accepting such contribution.⁵ The “knowing” acceptance of a
5 contribution requires knowledge of the underlying facts that constitute the prohibited act, but not
6 knowledge that the act itself — such as acceptance of an excessive contribution — is unlawful.⁶

7 The Audit Report concluded that the Committee received \$170,343 in excessive
8 contributions from four individuals.⁷ Though the Committee reported the contributions as loans
9 from the candidate’s personal funds, the audit concluded that the source of the funds was
10 personal loans from different individuals made directly to Francisco Canseco.⁸ The largest of the
11 four excessive contributions — \$147,600 — was received from Rod Lewis.⁹

12 Based on this information, the Commission finds reason to believe that Lewis violated 52
13 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)) by making an excessive contribution.

⁴ A contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 52 U.S.C. § 30101(8)(A)(i) (formerly 2 U.S.C. § 431(8)(A)(i)).

⁵ 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)). 52 U.S.C. § 30116(f) (formerly 2 U.S.C. 441a(f)); *see* MUR 6417 (Jim Huffman for Senate) (candidate violated section 30116(f) (formerly section 441a(f)) by accepting funds from another source then transferring them to the Committee as “personal funds”); MUR 5408 (Sharpton 2004) (candidate violated section 30116(f) (formerly section 441a(f)) by accepting funds and using them for campaign activity).

⁶ *See FEC v. Dramesi*, 640 F. Supp. 985, 987 (D.N.J. 1986).

⁷ Audit Rpt. at 12. The excessive amount was derived from contributions of \$150,000, \$15,093, \$7,157, and \$7,693, minus the \$2,400 contribution limit for each of the four individuals that made the contributions (\$9,600). *Id.* at fns. 9 and 10.

⁸ *Id.* at 12.

⁹ Lewis Resp. at 1-2.